

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ABSOLEM STEVEN-JAMAR THOMAS,

Petitioner,

Case No. 1:04-CV-482

v.

HON. GORDON J. QUIST

BARBARA BOUCHARD,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court has before it Petitioner's objections to the Magistrate Judge's Report and Recommendation issued on July 3, 2007, in which the magistrate judge recommended that the Court dismiss Petitioner's habeas claim without prejudice because Petitioner has not exhausted his state court remedies. After conducting a *de novo* review of the report and recommendation, the Court concludes that the report and recommendation should be adopted by the Court.

Petitioner argues that the magistrate judge erred in not considering the merits of his petition. Petitioner does not contest that he has related claims pending on appeal in Michigan state court, but asks that the Court consider the merits of his petition. As noted by the magistrate judge, the Michigan appellate courts have allowed Petitioner to seek additional relief from his conviction, and Petitioner's claims with respect to his guilty plea and conviction remain unexhausted in the state courts. Petitioner may re-file his petition once his state court remedies are exhausted. Therefore,

IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation issued on July 3, 2007 (docket no. 39), is **APPROVED AND ADOPTED** as the Opinion of this Court.

IT IS FURTHER ORDERED that Petitioner's petition for writ of habeas corpus is **DISMISSED WITHOUT PREJUDICE**.

This case is **concluded**.

Dated: August 8, 2007

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE